

**BID OPENING**  
**CITY OF SAN JOSE**  
**OFFICE OF THE CITY CLERK**

**RECEIVED**  
**City Clerk City Clerk**  
**Time Stamp**  
2009 AUG 27 P 2:45

TOTAL BASE BID 381,000 —

ALT NO. 1 \_\_\_\_\_

ALT NO. 2 \_\_\_\_\_

ALT NO. 3 \_\_\_\_\_

Alt No. 4 \_\_\_\_\_

Alt No. 5 \_\_\_\_\_

BID DATE: Thursday, August 27, 2009

Project Manager: Stacey Palomar – 535-8409

**ABORN PARK PLAY LOTS PROJECT**

BIDDER NAME: Maxicrete, Inc

Bond ☒ Cashier's Check \_\_\_\_\_

Addendums Included ( 0 )

NonCollusion Affidavit

YES ☒ NO \_\_\_\_\_

YES ☒ NO \_\_\_\_\_

***ABORN PARK PLAY LOTS***

**BID DOCUMENTS**

BID OPENING

3:00 P.M.

Thursday, August 27, 2009

Bidder: MAXIcrete, Inc.

**PROPOSAL TO CITY OF SAN JOSE**  
**FOR**  
**ABORN PARK PLAY LOTS**

Name of Bidder:

The representations herein are made under penalty of perjury.

To: The City of San Jose, State of California

The undersigned, as bidder, declares that the only person or parties interested in this proposal as principals are those named herein; that this proposal is made without collusion with any other person, firm or corporation; that the bidder has thoroughly read and examined and has full knowledge of and understands all the provisions and contents of this proposal and the documents which must be attached hereto, the Plans approved by the Director of Public Works on 7/31/09, entitled Aborn Park Play Lots and the Specifications approved by the Director of Public Works on 7/31/09, entitled Aborn Park Play Lots on file in the office of the Director of Public Works of the City of San Jose in City Hall, San Jose, California; that the bidder has thoroughly examined said Plans and Specifications which are on file in the office of the Director of Public Works, and that the bidder has full knowledge of and understands said Plans and Specifications and the requirements thereof; and that the bidder has further read and understands, and has knowledge of the contents of any and all addenda to said Plans and Specifications on file; and that the bidder proposes and agrees, if this proposal is accepted, that the bidder will contract with the City of San Jose, in the form of the copy of the contract on file in the office of the Director of Public Works, to do all the work and furnish all materials specified or referred to in the contract, in the manner and time therein prescribed, and according to the requirements of the City or Director of Public Works as therein set forth, to furnish the contract, bonds and insurance specified in the Specifications, and to do all other things required of the Contractor by the contract; and will take in full payment therefor the following price or unit prices as shown in the Schedule of Quantities on the next page(s).

If the bidder or other interested persons is a corporation, state legal name of corporation, also names of the President, Secretary, Treasurer, and the Manager thereof; if a partnership, state the name of the partnership, if one exists, also the names of all the partners comprising the partnership; if any of the partners are individuals, state the first and last name of every individual in full, if any of the partners are corporations, state for each such corporation, the information required above of corporations; if any of the partners are partnerships, state for each such partnership the information required above of partners; if the bidder or other interested person is a joint-venture, state the name of the joint venture, also names of all joint venturers comprising the joint venture; if any of the joint venturers are individuals, state the first and last name of every individual comprising the joint venture; if any of the joint venturers are corporations, state for each corporation the information required above of corporations; if any of the joint venturers are partnerships, state for each such partnership, the information required above of partners; if bidder or other interested persons is an individual, state first and last names in full.

If bidder is an individual, the bidder's signature shall be placed below; if bidder is an individual, doing business under a fictitious name, the name of the individual followed by the words "doing business under (insert the fictitious name)" shall be set forth above, together with the signature of the individual; if bidder is a corporation, the legal name of the corporation shall be set forth above, together with the signature of the officer or officers of the corporation, authorized to sign contracts on behalf of the corporation, the corporate title; that is Vice-President, Secretary, etc., should be placed below the name of the officer and the corporate seal affixed; if bidder is a partnership, the legal name of the partnership, if one exists, shall be set forth above, together with the signature of the partner or partners authorize to sign contracts on behalf of the partnership; if any of the partners are corporations, execution for such partners shall be accomplished

**SCHEDULE OF QUANTITIES  
FOR  
ABORN PARK PLAY LOTS**

ITEM	SPECIFICATION SECTION	DESCRIPTION OF ITEM	TOTAL
1.	013000	MOBILIZATION	\$15,000 -
2.	015000	UTILITY CONFLICT COST ALLOWANCE	\$24,000 (Fixed Lump Sum)
3.	015000	WATER POLLUTION CONTROL PLAN	\$10,000 (Fixed Lump Sum)
4.	015000	EMERGENCY EROSION AND SEDIMENT CONTROL	\$5,000 (Fixed Lump Sum)
5.	024100	SITE PREPARATION AND DEMOLITION	\$15,000 -
6.	116813	PLAYGROUND EQUIPMENT	\$195,000 -
7.	129300	SITE FURNISHINGS	\$12,500 -
8.	311000-313100	EARTHWORK	\$35,000 -
9.	320100	OPERATION AND MAINTENANCE PERIOD	\$5,000 -
10.	321300, 323200,323200	CONCRETE	\$45,000 -
11.	328400	PLANTING IRRIGATION	\$9,500 -
12.	260500-26520	ELECTRICAL	\$10,000 -
		TOTAL BASE BID AMOUNT (ITEMS 1 THROUGH 12, INCLUSIVE) FOR THE LUMP SUM TOTAL OF:>>>>>>>>>>>	\$381,000 -

**NOTE TO BIDDERS:**  
The Bidder's Bond shall be at least 10% of the TOTAL BID AMOUNT.

in accordance with the requirements set forth above for corporations; if any of the partners are partnerships, execution for such partners shall be accomplished in accordance with the requirements set forth above for partnership; if bidder is a joint-venture, the legal name of the joint venture, if one exists, shall be set forth above for partnerships. If signature is by an agent other than an officer of a corporation, or member of a partnership or a joint venture, a Power of Attorney must be on file with the City Clerk prior to opening bids or submitted with the bid; otherwise, the bid may, at the City's option, be disregarded as non-responsive.

If this proposal shall be accepted and the undersigned shall fail to contract, and to give the Contractor's Bond For Faithful Performance and the Contractor's Payment Bond required by the specifications and contract and by law, and to provide all insurance as required by said contract, within eight (8) days after the bidder has received notice from the City of San Jose, the City may, at its option, determine that the bidder has abandoned his/her contract, and thereupon this proposal and the acceptance thereof shall be null and void, and the forfeiture of such security accompanying this proposal shall operate and the same shall be the property of the City of San Jose.

In accordance with Public Contract Code Section 10232, the Contractor, hereby states under penalty of perjury, that no more than one final unappealable finding on contempt of court by a federal court has been issued against the Contractor within the immediately preceding two year period because of the Contractor's failure to comply with an order of a federal court which orders the Contractor to comply with an order of the National Labor Relations Board. Signing this Proposal on the signature portion thereof shall constitute signature of this Statement.

Accompanying this proposal are the following documents completely filled in by the bidder and the same are incorporated herein by reference;

1. Cash, a cashier's check or a certified check made payable to City, or a bidder's bond executed by an admitted surety insurer naming the City as beneficiary, in an amount equal to at least ten percent (10%) of the total amount bid including all alternatives.
2. A "List of Subcontractors".
3. A "Statement of Bidder's Experience".

City may at its option, request additional supplemental information after bid opening.

Bidder understands that the City reserves the right to reject any or all bids and to waive any informalities in the bidding.

The undersigned, as bidder, declares that in listing subcontractors in this bid, I have not discriminated or given any preference to any firm based on race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin. I understand that any such discrimination or preference is in violation of Chapter 4.08 of the Municipal Code.

Execution of the Non-Collusion Affidavit constitutes execution of this Bid Proposal including the above statement of nondiscrimination and, with the exception of the Bidder's Bond or Addenda, if any, no other signatures will be required.

# NONCOLLUSION AFFIDAVIT

Project Title: ABORN PARK PLAY LOTS

MAX DIAZ

(print name)

, being first duly sworn, deposes and says that he/she is

the party making the foregoing bid that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof the effectuate a collusive or sham bid.

In accordance with Title 23, United States Code, Section 112, the bidder hereby states, under penalty of perjury, that he/she has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this contract. Bidders are cautioned that making a false certification may subject certifier to criminal prosecution.

The undersigned declares under penalty of perjury that the information contained in this proposal and all accompanying documents are true and correct.

Executed on August 17, 2009

MAXSTONE, Inc. dba Maxicrete, Inc.

Legal Company Name

Corporation

Indicate Type of Entity: Sole Proprietorship,  
Partnership (General/Limited Partners),  
Corporation, Joint Venture, etc.

City Business Lic. No.: 7640441210

Expiration Date: 8/15/2010

State Contractor Lic. No.: 753882

Classification: CB1A

Expiration Date: 9/30/2010

Federal I. D. No.: 94-3305394

Address: 1125 WILSON ST, SUITE 201

PHILADELPHIA, CA 94533

By: Max Diaz

Title: President

Telephone: (707) 422-7990

## NOTARY

On August 17, 2009

before me, Elizabeth Lorenzo, Notary Public

(name and title of officer)

, personally appeared

MAX DIAZ

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

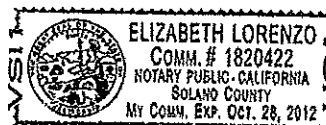
I certify under the PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Elizabeth Lorenzo  
Notary Public

(Seal)



# LIST OF SUBCONTRACTORS

Designation of Subcontractors as required in Section 2-1.15A of the City of San Jose Standard Specifications, July 1992.

NAME OF SUBCONTRACTOR	LOCATION OF PLACE OF BUSINESS	PORTION (DESCRIPTION) OF WORK
Playgrounds unlimited	Sunnyvale CA.	Play structure install / surfacing
Northern Underground Const.	San Jose	Drainage / Electrical

## STATEMENT OF BIDDER'S EXPERIENCE

The bidder is required to state below what work of similar magnitude or character the bidder has done, and to give reference that will enable the City Council to judge the bidder's experience, skill and business standing and of the bidder's ability to conduct the bidder's work as completely and as rapidly as required under the terms of the contract.

PROJECT NAME

AGENCY/ENTITY

CONTRACT AMOUNT

*See Attached*



## **STATEMENT OF BIDDER'S EXPERIENCE**

The bidder is required to state below what work of similar magnitude or character the bidder has done, and to give reference that will enable the City Council to judge the bidder's experience, skill and business standing and of the bidder's ability to conduct the bidder's work as completely and as rapidly as required under the terms of the contract.

**PROJECT NAME**

**AGENCY/ENTITY**

**CONTRACT AMOUNT**

*See attached*

## **BIDDER'S BOND**

KNOW ALL PERSONS BY THESE PRESENTS:

That we, Maxistone, Inc. dba: Maxicrete as PRINCIPAL,  
and Insurance Company of the West, a corporation duly organized under the  
laws of the State of California and duly licensed to become sole surety on bonds  
required or authorized by the State of California, as SURETY, are held and firmly bound unto the  
City of San Jose (hereinafter called the "City"), in the penal sum of TEN PERCENT (10%) OF THE  
TOTAL AMOUNT OF THE BID of the Principal above named, submitted by said Principal to the  
City of San Jose, for the work described below; for the payment of which sum in lawful money of  
the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators  
and successors, jointly and severally, firmly by these presents. In no case shall the liability of the  
Surety hereunder exceed the sum of not to exceed ten percent\*\*\* DOLLARS (\$  
10% of bid \*\*\*of bid amount)

THE CONDITION OF THIS OBLIGATION IS SUCH,

That whereas the Principal has submitted the above mentioned bid to the City of San Jose, for  
certain construction specifically described as follows, for which bids are to be opened in the Office  
of the City Clerk, City of San Jose, City Hall, 200 E. Santa Clara St., Wing 2nd Fl., San Jose, CA  
95113, on Thursday, August 27, 2009 for **ABORN PARK PLAY LOTS.**

NOW, THEREFORE, if the aforesaid Principal is awarded the contract and, within the time  
and manner required under the specifications, after the prescribed forms are presented to Principal  
for signature, enters into a written contract, in the prescribed forms, in accordance with the bid, and  
files a Faithful Performance Bond and a Contractor's Payment Bond, and files the required insurance  
policies with the City, all as required by the specifications and the contract or by law, then the  
obligation shall be null and void; otherwise it shall be and remain in full force and effect.

The Surety, for value received, hereby stipulates and agrees that the obligation of said Surety  
and its bond shall be in no way impaired or affected by any extension of the time within which the  
Owner may accept such Bid; and said Surety does hereby waive notice of any such extension.

In the event suit is brought upon this bond by the Obligee and judgement is recovered, the  
Surety shall pay all costs incurred by the Obligee in such suit, including a reasonable attorney's fee to  
be fixed by the court.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this 14th  
day of August, 20 09.


PRINCIPAL


SURETY

Maxistone, Inc. dba: Maxicrete  
Legal Company Name

Insurance Company of the West  
Legal Company Name

Indicate Type of Entity Corporation

By   
Title: Max Diaz, President

By   
Title: Teresa Galart  
Attorney-In-Fact

By \_\_\_\_\_  
Title:

By \_\_\_\_\_  
Title:

(Affix Corporate Seals)

(Attach Acknowledgments of both Principal and Surety signatures)

**ICW GROUP**  
**Power of Attorney**  
**Insurance Company of the West**  
**Explorer Insurance Company**      **Independence Casualty and Surety Company**

KNOW ALL MEN BY THESE PRESENTS: That Insurance Company of the West, a Corporation duly organized under the laws of the State of California, Explorer Insurance Company, a Corporation duly organized under the laws of the State of California, and Independence Casualty and Surety Company, a Corporation duly organized under the laws of the State of Texas, (collectively referred to as the "Companies"), do hereby appoint

JOHN MARTIN ARMSTRONG, VICTORIA ASHER, TERESA GALART, DANIEL BERTRAND, BROOKS SANTONI

their true and lawful Attorney(s)-in-Fact with authority to date, execute, sign, seal, and deliver on behalf of the Companies, fidelity and surety bonds, undertakings, and other similar contracts of suretyship, and any related documents.

In witness whereof, the Companies have caused these presents to be executed by its duly authorized officers this 2nd day of January, 2008.



**INSURANCE COMPANY OF THE WEST**  
**EXPLORER INSURANCE COMPANY**  
**INDEPENDENCE CASUALTY AND SURETY COMPANY**

*Jeffrey D. Sweeney*

Jeffrey D. Sweeney, Assistant Secretary

*J. Douglas Browne*

J. Douglas Browne, Senior Vice President

State of California }  
 County of San Diego } ss.

On January 2, 2008, before me, Mary Cobb, Notary Public, personally appeared J. Douglas Browne and Jeffrey D. Sweeney, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument, the entity upon behalf of which the persons acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.



*Mary Cobb*

Mary Cobb, Notary Public

**RESOLUTIONS**

This Power of Attorney is granted and is signed, sealed and notarized with facsimile signatures and seals under authority of the following resolutions adopted by the respective Boards of Directors of each of the Companies:

"RESOLVED: That the President, an Executive or Senior Vice President of the Company, together with the Secretary or any Assistant Secretary, are hereby authorized to execute Powers of Attorney appointing the person(s) named as Attorney(s)-in-Fact to date, execute, sign, seal, and deliver on behalf of the Company, fidelity and surety bonds, undertakings, and other similar contracts of suretyship, and any related documents.

RESOLVED FURTHER: That the signatures of the officers making the appointment, and the signature of any officer certifying the validity and current status of the appointment, may be facsimile representations of those signatures; and the signature and seal of any notary, and the seal of the Company, may be facsimile representations of those signatures and seals, and such facsimile representations shall have the same force and effect as if manually affixed. The facsimile representations referred to herein may be affixed by stamping, printing, typing, or photocopying."

**CERTIFICATE**

I, the undersigned, Assistant Secretary of Insurance Company of the West, Explorer Insurance Company, and Independence Casualty and Surety Company, do hereby certify that the foregoing Power of Attorney is in full force and effect, and has not been revoked, and that the above resolutions were duly adopted by the respective Boards of Directors of the Companies, and are now in full force.

IN WITNESS WHEREOF, I have set my hand this 14th day of August, 2009.

*Jeffrey D. Sweeney*

Jeffrey D. Sweeney, Assistant Secretary

To verify the authenticity of this Power of Attorney you may call 1-800-877-1111 and ask for the Surety Division. Please refer to the Power of Attorney Number, the above named individual(s) and details of the bond to which the power is attached. For information or filing claims, please contact Surety Claims, ICW Group, 11455 El Camino Real, San Diego, CA 92130-2045 or call (858) 350-2400.

# CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of: California

County of: Yolo

On: August 14, 2009, before me, Elizabeth Lorenzo, Notary Public

personally appeared Teresa Galarraga (name and title of the officer)

who proved to me on the basis of satisfactory evidence to be the person (s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature of Notary Public



(Notary Seal)

## OPTIONAL INFORMATION

Information below is NOT required by law however may deter fraudulent removal of this form.

### Description of Attached Document

Number of Pages \_\_\_\_\_

Document Date: \_\_\_\_\_

Title or type of document \_\_\_\_\_

Additional information \_\_\_\_\_

### Capacity Claimed by Signer(s)

- ☐ Individual(s)
- ☐ Corporate Officer
- ☐ Partner
- ☐ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other \_\_\_\_\_

# CALIFORNIA ALL-PURPOSE CERTIFICATE OF AKNOWLEDGMENT

State of: California

County of: Solano

On August 14, 2009, before me, Elizabeth Lorenzo, Notary Public

personally appeared MAX DIAZ (name and title of the officer)

who proved to me on the basis of satisfactory evidence to be the person (s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

[Signature]  
Signature of Notary Public



(Notary Seal)

## OPTIONAL INFORMATION

Information below is NOT required by law however may deter fraudulent removal of this form.

Description of Attached Document	Right Thumbprint of Signer	Capacity Claimed by Signer(s)	Right Thumbprint of Signer
Number of Pages _____ Document Date: _____		<input type="checkbox"/> Individual(s) <input type="checkbox"/> Corporate Officer	
Title or type of document _____		<input type="checkbox"/> Partner <input type="checkbox"/> Attorney-in-Fact <input type="checkbox"/> Trustee(s) <input type="checkbox"/> Other _____	
Additional information _____			



# MAXICRETE

CONCRETE CONSTRUCTION

## Past Work

### Windemere Sports Park

Client	Valley Crest Landscape (Jeff Colton 925-463-0700)
Year	2005
Contract amount	\$585,270.00
Type of work	Curb, gutter, sidewalk, mow bands with fence, planters with skate blocks, metal work (hand rails), and concrete basketball courts.

### Warm Springs Community Park

Client	Goodland Landscape (Dina & Tom Wortham 209-835-9956)
Year	2006
Contract Amount	\$349,480.00
Type of work	Sidewalk, Keystone wall, monumentation, repairs

### Mountain House Community Park

Client	Trimark Communities, LLC (Jeff Gravel 209-836-1560)
Year	2007
Contract Amount	\$914,255.00
Type of work	Concrete walkways and mow bands, bocce ball courts, basketball court, pre-fab restroom construction, and aquatic play area with colored concrete

### Civic Park

Client	Taylor Woodrow Homes (Donna Logan 925-659-0110)
Year	2006
Contract Amount	\$1,663,429.00
Type of work	All site work from foundation walls out, drainage, waterproofing, play areas, and water features.

### Southtown

Client	Western Pacific Housing (Dennis Hudspeth 925-575-4228)
Year	2007
Contract Amount	\$1,840,818.50
Type of Work	Curb, gutter, sidewalk, entry monuments, and sound wall.



# MAXICRETE

CONCRETE CONSTRUCTION

## Past Public Work

### Winters Downtown Streetscape

Client City of Winters  
Asa Utterback- Project Manager (530-668-5883)  
318 1<sup>st</sup> Street, Winters, CA 95694  
Year 2008  
Contract Amount \$863,762.00  
Type of Work Pavers, curbs, sidewalk, decorative seat walls, landscaping,  
paving, underground utilities and bollards

### Lundy Park – City of San Jose

Client Toll Brothers Inc.  
Ricardo Maciel – Project Manager (408-452-7533)  
1319 Marcello Drive, San Jose, CA 95131  
Year 2008  
Contract Amount \$767,500.00  
Type of Work Demo, Asphalt Paving, Landscape/ Irrigation and Site  
Furnishings. Turn Key Park

### Big Break Regional Shoreline Bridge and Trail Approaches

Client East Bay Regional Parks District  
Bob Thomas – Construction Manager (510-544-2361)  
2950 Peralta Oaks Court, Oakland, CA 94605  
Year 2008  
Contract Amount \$323,500.00  
Type of Work Asphalt Paving, Wetlands, Bridge Installation and Trail  
Approaches.

### Tiburon Pine Terrace Pedestrian Path improvements

Client Town of Tiburon -Gannett Flemming, inc.  
Mark Akaba (415) 384-0855  
1505 Tiburon Blvd., Tiburon, CA 94920  
Year 2008  
Contract Amount \$164,175.00  
Type of Work Pedestrian Path including landings and railing

### Sidewalk Ramp Improvements-County of Sacramento

Client County of Sacramento  
Dale Cox- Inspector (916) 202-4787  
3030 Explorer Drive, Sacramento, CA 95827  
Year 2008  
Contract Amount \$1,050,475.00  
Type of Work Paving, striping, and underground utilities